

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

AMERICAN COUNCIL OF THE BLIND OF
NEW YORK, INC., MICHAEL GOLFO, AND
CHRISTINA CURRY, on behalf of themselves
and all others similarly situated,

Plaintiffs,

-against-

THE CITY OF NEW YORK, NEW YORK
CITY DEPARTMENT OF
TRANSPORTATION, BILL DE BLASIO, in
his official capacity as Mayor of the City of
New York, and POLLY TROTTENBERG, in
her official capacity as Commissioner of the
New York City Department of Transportation,

Defendants.

No. 18-CV-5792 (PAE)

**DECLARATION OF ELISABETH
FRANKLIN**

ELISABETH FRANKLIN, declares under the penalty of perjury, pursuant to 28
U.S.C. § 1746, as follows:

1. I have been employed at the New York City Department of Transportation (“DOT”), in various positions since 2009 and have served as Associate Commissioner for Budget and Capital Program Management since 2017. In this position, I have responsibility for overseeing the agency’s expense (operating) and capital budgets. This includes the development of funding requests for new programs and projects, the formulation of potential savings initiatives, and the maximizing of available funds to further DOT’s goals and mission.

2. I make this declaration to supplement my March 19, 2021 declaration in support of defendants’ proposed remedial plan (Dkt. 142-7) and to set forth for the record certain facts in support of defendants’ amended proposed remedial plan.

3. The City adopts both its expense and capital budgets for the succeeding fiscal year in June of each year. Throughout the fiscal year, the City can amend its current fiscal year budget. For planning purposes, the City also produces a financial plan and a current capital plan which covers the current fiscal year and the four succeeding fiscal years. Further, every other year, the City releases a Ten Year Capital Strategy, which sets forth anticipated capital spending over the next ten fiscal years. The most recent financial plan and the current capital plan, covering fiscal years 2021 through 2025, and the Ten Year Capital Strategy, covering fiscal years 2022 through 2031, were released on April 26, 2021¹, as part of the Mayor's Executive Budget, an update to the Mayor's Preliminary Budget, released on January 14, 2021 . The City can only adopt a budget for one year and out-year numbers presented in the financial plan, the current capital plan and the Ten Year Capital Strategy are for planning purposes only.

4. The Executive Budget, released on April 26, 2021, reflects federal aid allocated to the City, through the American Rescue Plan, which was signed into law on March 11, 2021. With such an increase in federal aid, the DOT was able to revise its previously submitted proposed remedial plan. The remedial plan, as revised, reflects the installation of APS at approximately 500 intersections per year (following a two-year ramp-up period) through the last year of the Ten Year Capital Strategy (FY31).

5. The Executive Budget is exceptionally voluminous and covers the budget for all City agencies. The Capital Commitment Plan, covering the current fiscal year and the next four (FY21-FY25) details the precise capital commitments amounts for City agencies that are included in the Executive Budget. *See*, fn. 1. DOT's budget is detailed at Volume 4 of the recently released Capital Commitment Plan. *Id.* The Ten Year Capital Strategy is also issued as part of the Executive

¹ <https://www1.nyc.gov/site/omb/publications/finplan04-21.page> (last visited 5/7/2021)

Budget on odd years, and sets forth the Mayor's proposed Capital investments for the next ten years. This year's Ten Year Capital Strategy covers FY22 through FY31.

6. As set forth in my March 19, 2021 declaration, DOT's current fiscal year ("FY") 2021 expense budget is \$1.1 billion, while the current fiscal year capital budget is \$1.2 billion. The Ten Year Capital Strategy, released on April 26, 2021, projects capital commitments of an aggregate of \$23 billion for DOT (FY22 through FY31). This is an increase of over \$4 billion from the Preliminary Ten Year Capital Strategy, released on January 14, 2021, which previously projected \$18.5 billion in DOT spending in aggregate (FY22 through FY31). *See* Dkt. 142-7 at ¶ 9.

7. While the projected capital funding, for DOT, in the Ten Year Capital Strategy seems substantial, it must cover all Capital programs within DOT's responsibilities to keep the City's infrastructure in a state of good repair and safe for the traveling public. The current Capital Commitment Plan (FY21-FY25) and the Ten Year Capital Strategy (FY22-FY31) for DOT together include the following:

- a. \$11.4 billion for bridge reconstruction and rehabilitation² of DOT's nearly 800 bridges;
- b. \$3.9 billion for street reconstruction, including \$1.9 billion for Vision Zero redesigns and rebuilds to improve traffic safety;
- c. \$3.2 billion for street resurfacing which consists of milling and paving to maintain the City's approximately 6,300 miles of streets;

² DOT's annual Bridges and Tunnels Report describes DOT's work in maintaining 794 City bridges and tunnels. https://www1.nyc.gov/html/dot/downloads/pdf/dot_bridgereport19.pdf

- d. \$3.4 billion for sidewalk and pedestrian ramp repair and reconstruction on over 12,000 miles of sidewalks;
 - e. \$497 million for the Staten Island Ferry, which runs 24 hours a day, 365 days a year and must safely carry approximately 25 million passengers annually;
 - f. \$1.1 billion for traffic control equipment such as streetlights, traffic signals, parking meters, automated enforcement cameras, and APSs (\$359 million); and
 - g. \$626 million for the facilities and equipment needed to support DOT's operations.
8. DOT's FY21 Expense Budget includes the following:
- a. \$357 million for traffic operations, including maintenance of traffic signals, streetlights, and parking meters;
 - b. \$196 million for roadway maintenance;
 - c. \$106 million for bridge maintenance and inspection;
 - d. \$125 million for transportation planning and management, including installation and maintenance of approximately one million street signs and 350 million linear feet of roadway markings;
 - e. \$102 million for ferry operations and maintenance; and
 - f. \$251 million for other DOT operations and administration, including sidewalk management and inspection.

9. While DOT's Capital budget is large, the scope of the inventory for which the agency is responsible demands sizable investment. For example, the Annual Bridges and Tunnels Report ("Bridges Report") details the estimated replacement cost of all 794 structures under the agency's purview. The total inventory replacement cost listed in the 2019 report is over \$70 billion (page 62). Bridges that are listed with a "Fair" condition rating will likely need substantial

reconstruction if not complete replacement within the next 1 to 20 years. Bridges rated “Good” will likely need such work performed in the 10-year period after that. In addition to this Bridges Report detailing the massive costs that DOT can expect to incur over the next several decades, conditions of DOT’s other assets are tracked in other publications, such as the Mayor’s Management Report (MMR)³. The MMR measures the agency’s performance against specific targets.⁴ For example, as noted in the MMR, DOT is just at target for streets with a pavement rating of “Good,” with nearly 30% rated in “Fair” condition. *Id.* at 225. With a City network of over 6,000 miles of paved streets, significant investment is needed to meet future targets.

10. Nonetheless, the importance of investment in APS installations was recognized in the Mayor’s just-published Executive Budget, released on April 26, 2021. As compared to the Preliminary Budget, released on January 14, 2021, there was an additional \$187 million in capital funding for the installation of APS, bringing the total amount of capital funding for APS installation to \$359 million (FY21-FY31). DOT predicts that this will allow for the installation of APS at approximately 500 intersections per year (following a two-year ramp-up period), through the last year of the Ten Year Capital Strategy (FY31). Expense funding has also been provided in the recently released Executive Budget to support such increased capital investment, both in planning and design staff, and in funds to operate and maintain the infrastructure. The City is committed to completing the installation of APS at all intersections with pedestrian signals by the end of FY51, as set forth in DOT’s amended proposed remedial plan. However, the City’s

³ See <https://www1.nyc.gov/site/operations/performance/mmr.page>

⁴ The Mayor’s Management Report (MMR), which is mandated by the City Charter, serves as a public account of the performance of City agencies, measuring whether they are delivering services efficiently, effectively and expeditiously. The MMR is released twice a year. The Preliminary MMR provides an early update of how the City is performing four months into the fiscal year. The full-fiscal MMR, published each September, looks retrospectively at the City’s performance during the prior fiscal year. See <https://www1.nyc.gov/site/operations/performance/mmr.page> (last visited 5/7/2021)

budgeting process, pursuant to the City Charter, does not include any formal budget planning documents which go out further than the last year of the current Ten Year Capital Strategy (FY 2031). As new Ten Year Capital Strategies are released, additional fiscal years will be added.

Dated: New York, New York
May 7, 2021

ELISABETH FRANKLIN